



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

a government as defendant. There is no inherent reason to refuse judicial cognizance of a *de facto* government as a legal unit. A usurping group may be dealt with as a legal entity in litigation without embarrassing the political departments of the government. Political questions will be involved, if at all, only in the determination of the powers and responsibilities of this legal unit. Where a government is recognized after an action is started, the defendant cannot assert that there was no party plaintiff at the beginning of the action. *State of Yucatan v. Argumedo, supra*. This indirectly assumes that there was a legal unit before recognition, the recognition merely removing political objections to the suit. Though the Soviet Government is a legal unit, the capacity to sue may be denied because of political considerations. But there should be no rule of thumb as suggested in the *Cibrario* case; rather such capacity should depend upon the political ramifications of the particular litigation. The principal case involved no political objections, which is the normal situation where the *de facto* government is the defendant. Obviously this defendant is not protected by the usual immunity of foreign states based upon comity. *Kingdom of Roumania v. Guaranty Trust Co.*, 250 Fed. 341 (2d Circ.).

INTERSTATE COMMERCE — CONTROL BY CONGRESS — RESPONSIBILITY FOR DISCRIMINATION UNDER § 3 OF THE INTERSTATE COMMERCE ACT. — Certain southern and midwestern carriers, with whom the plaintiffs had through routes and joint rates, allowed the privilege of creosoting-in-transit to creosoting companies on their lines. The plaintiff carriers refused to grant this privilege to the X Company, a competing creosoting company, and the only one on the plaintiffs' lines. On petition of the X Company, the Interstate Commerce Commission found that the denial of this privilege was not unjust or unreasonable under § 1 (6) but did subject the company to unjust discrimination under § 3 of the Interstate Commerce Act. (24 STAT. AT. L. 379, 380.) It ordered the plaintiffs to remove this undue discrimination. (*American Creosoting Co. v. Director General*, 61 I. C. C. 145.) The plaintiffs applied for a preliminary injunction to prevent the enforcement of this order. The application was denied. *Held*, that the decree be reversed. *Central R. R. of N. J. v. United States*, U. S. Sup. Ct., Oct. Term, 1921, No. 436.

Whether or not discrimination exists in a given case is a question of fact. *Interstate Commerce Commission v. Alabama Midland Ry.*, 168 U. S. 144. The findings of the Interstate Commerce Commission in this respect are conclusive, unless arbitrary. *Manufacturers Ry. Co. v. United States*, 246 U. S. 457. But in the principal case there is a question of law: whether the discrimination found was attributable to the plaintiffs. Such a question is decided *de novo* by the courts. *Texas & Pacific Ry. v. Interstate Commerce Commission*, 162 U. S. 197. It is an eminently proper construction of § 3 that it prohibits only discrimination by a carrier between shippers on its own lines, or by several carriers "if each carrier has participated in some way in that which causes the unjust discrimination." *Cf. Penn. Refining Co. v. Western N. Y. & Pa. R. R. Co.*, 208 U. S. 208; *Phila. & Reading Ry. v. United States*, 240 U. S. 334. The hardship to the X Company was caused by the distant carriers independently granting the privilege to its competitors. The advisability of such a practice may depend on local conditions. It would be unfortunate if a carrier could be compelled to grant a privilege merely because its connections do so. The X Company's only remedy is to convince the Commission that denial of the privilege is unreasonable under § 1 (6) of the Act.

INJUNCTIONS — NATURE AND SCOPE OF REMEDY — RELIEF AGAINST FRAUDULENT SUBSTITUTIONS OF THE DEFENDANT'S PRODUCT FOR THE PLAINTIFF'S. — The complainant prepared a medicine called Coco-Quinine, colored and flavored with chocolate. Its merits were explained to physicians who prescribed